

MEMO ENDORSED

Josh Bernstein, P.C.
Civil Rights & Employment Law

Josh Bernstein, P.C.
 160 Varick Street, 3rd Fl.
 New York, NY 10013

(Phone) (646) 308-1515
 (Fax) (718) 679-9517
 jbernstein@jbernsteinpc.com

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January 28, 2022

RE: Explanation of Corrected Amended Complaint Filing

The Honorable Valerie E. Caproni
 United States District Court, Southern District of New York
 Thurgood Marshall United States Courthouse
 40 Foley Square, Room 240
 New York, NY 10007

Daniel Abbott, et al. v. Comme des Garcons, Ltd., et al., Index No. 21 cv 4929

Judge Caproni,

I represent Plaintiffs Daniel Abbott et. al. in the above-captioned matter, and write in explanation of the (Corrected) Amended Complaint filed earlier this evening.

This afternoon, I filed the Amended Complaint (as a matter of right in response to Defendants' Motion to Dismiss). Later in the day, I realized that when I went to convert the word version of the Amended Complaint into PDF form for filing, I accidentally saved a predecessor version of the Amended Complaint.

The only difference between the predecessor version of the Amended Complaint I filed first this afternoon, and the Corrected version filed this evening is ¶ 31, describing the dates and different titles held by Plaintiff Gabriel Herrera.

Because the Corrected version of the Amended Complaint is merely a correction due to a technical error, and was filed within Plaintiffs' time to Amend as of Right, I do not believe an Order of the Court is necessary for it to be accepted for filing and become Plaintiffs' operative pleading in this matter. Nevertheless, in an abundance of caution, Plaintiffs respectfully request that your Honor issue an Order designating the Corrected Amended Complaint as timely and properly filed, and/or granting Plaintiffs leave to file the Corrected Amended Complaint nunc pro tunc.

Thank you for your attention to this matter.

Very truly yours,

 /s/
 Joshua Alexander Bernstein

The Amended Complaint at docket entry 51 is timely and properly filed.

Defendants' motion to dismiss at docket entry 47 is DENIED as moot. No later than **February 18, 2022**, Defendants must either file an answer to the Amended Complaint or move to dismiss the Amended Complaint.

SO ORDERED.

A handwritten signature in blue ink that reads "Valerie Caproni". The signature is fluid and cursive, with "Valerie" on top and "Caproni" below it, both starting with a capital letter.

1/29/2022

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE